

CHAPTER 43 IOWA BROADBAND INITIATIVE

199—43.1(476) Authority and purpose. These rules are intended to implement Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, relating to the Iowa broadband initiative.

The purpose of these rules is to provide guidelines for rate-regulated telecommunications carriers electing to participate in the Iowa broadband initiative and to evaluate the appropriateness of each carrier's broadband initiative revenue plan.

199—43.2(476) Definitions. The following words and terms, when used in this chapter, shall have the meanings shown below:

“Advanced telecommunications services” means the telecommunications infrastructure capable of delivering a data transmission speed of at least 200 kilobits per second in both directions.

“Affordable rates” is presumed to mean the current price for advanced telecommunications services being charged for similar services in areas with multiple broadband providers, as demonstrated by published or advertised prices. However, this presumption may be rebutted in appropriate circumstances.

“Plan” encompasses 36 consecutive months of projects for the deployment of advanced telecommunications services.

“Project” means individual or logically grouped proposals for the deployment of advanced telecommunications services.

“Public interest” includes, but is not limited to, the effective deployment, at the lowest reasonable expenditure of broadband initiative revenues, of advanced telecommunications services to the public at affordable rates, and the fostering of economic development through the increased availability of advanced telecommunications services.

199—43.3(476) Applicability. Rate-regulated telecommunications carriers electing to participate in the Iowa broadband initiative shall file for the board's review and approval a proposed plan for using the revenue each carrier will receive from the price increase permitted by Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6. The plan shall include economically achievable projects designed to expand advanced telecommunications services into areas of the state where advanced telecommunications services are currently unavailable. Each plan shall cover a time period not to exceed 36 months.

199—43.4(476) Procedures. The following procedures shall govern the board's review of broadband initiative plans:

43.4(1) Written notice of a broadband initiative plan. At least 30 days prior to a carrier's implementation of the price increase permitted by Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, and prior to filing its initial broadband initiative plan, a carrier shall mail or deliver to all affected customers a written notice of its intent to file a plan. A copy of the notice shall also be filed with the board at the time the notice is sent to all affected customers. The notice shall, at a minimum, include the following elements:

a. The monthly price increase to be implemented pursuant to Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, and the date for implementation.

b. A statement that the carrier will be filing a broadband initiative plan with the board pursuant to Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6.

c. The telephone numbers and addresses of carrier personnel, the board, and the consumer advocate for customers to contact with questions.

d. A statement describing the application of a credit, in an amount equal to the amount of the proposed residential service increase, to the monthly local exchange service rate for qualified applicants for low-income lifeline assistance programs.

A carrier shall file its broadband initiative plan within 60 days of the date that the notice is filed with the board.

43.4(2) *Plan review procedures.* The board shall issue an order approving, rejecting, or docketing a broadband initiative plan no later than 90 days after the plan is filed with the board. However, if the board seeks additional information from a carrier that submits a proposed plan, the 90-day period shall not commence until all such information has been filed with the board.

a. Supporting documents shall be filed with each carrier's application for approval of a broadband initiative plan.

b. Responses to a proposed plan shall be filed with the board within 10 days after the date on which the plan or any additional information sought pursuant to paragraph 43.4(2) "a" is filed.

c. If the board docket a plan for further investigation, the plan shall be docketed as a formal contested case proceeding by the board and the procedures set forth in 199—Chapter 7 of these rules will apply.

43.4(3) *Price increases.* A carrier may implement a price increase for selected classes of customers. The price increase for any particular class of residential or business customers shall be a uniform increase across the carrier's Iowa service territory unless otherwise ordered by the board. A carrier electing to participate in the broadband initiative shall file a revised tariff with the board that reflects the proposed price increase for residential or business customers, as allowed by Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6.

43.4(4) *Interim approval.* While the proposed plan is under review, the board may grant interim approval to specific projects included in the proposed plan. Projects to be considered for interim approval may include, but are not limited to, the deployment of advanced telecommunications services into areas where advanced telecommunications services are unavailable in any part of the carrier's local exchanges.

43.4(5) *Modification of a plan.* The consumer advocate, the carrier, or a third-party intervenor may propose modification of a carrier's plan at any time. The board, on its own motion, may consider modification of a carrier's plan. All applications to modify a plan shall be filed in the same docket in which the original plan was filed. The board shall issue an order docketing, approving, or rejecting a proposed modification within 30 days of the date the proposed modification is filed. If the board rejects or modifies a carrier's plan, the board may require the carrier to file a modified plan and may specify the minimum acceptable contents of the modified plan. A carrier may withdraw its proposed plan at any time.

a. Reasons for modifying or rejecting a plan may include, but are not limited to, the following:

(1) A demonstration that advanced telecommunications services are already available at affordable rates in a substantial portion of the area(s) where the services are proposed to be deployed;

(2) A demonstration that significant investment by a third party has been committed for the deployment of advanced telecommunications services in one or more of the areas specified in the plan, and advanced telecommunications services will be offered in those areas within a reasonable time; or

(3) A demonstration that the deployment of advanced telecommunications services in one or more of the areas specified in the plan may no longer be cost-effective.

b. The carrier shall file an application to modify its plan if either of the following conditions occurs or is projected to occur during the life of the plan:

- (1) The total plan budget has changed or will change by a factor of plus or minus 10 percent.
- (2) An approved project is proposed to be eliminated or a new project is proposed to be added.

43.4(6) Refunds. If a carrier withdraws its plan prior to the completion of the plan, the carrier shall refund all unspent revenues to existing customers in a manner to be approved by the board and at a rate of interest to be determined by the board, but not to exceed the interest rate allowed in Iowa Code section 476.6(13).

199—43.5(476) Broadband initiative plan requirements. A carrier's proposed plan shall include individual projects spanning 36 consecutive months from the date the plan is filed and shall include a plan for extending advanced services to all customers in the areas where the services are proposed to be deployed (if that will require more than 36 months) to the extent consistent with technological limitations and the public interest. Each project description shall include the means by which the carrier proposes to provide advanced telecommunications services to customers that currently cannot be offered such services as well as an estimate of the number of potential customers that may benefit as a result of the project. The plan shall also include a description of how the public interest will be met by the plan and a description of the geographic locations where the improvements are proposed. The plan shall include a ranking of projects, or group of projects, depicting the order and areas in which a carrier proposes to deploy advanced telecommunications services.

43.5(1) Description of each proposed project. The description of each proposed project shall include but not be limited to:

- a. The name of the proposed project;
- b. The exchange(s) or area(s), the total number of access lines in the exchange(s) or area(s), and the number of unserved access lines that the project targets;
- c. The proposed improvements and related costs for the project;
- d. The calculation of the total investment divided by the number of additional access lines to be served;
- e. The anticipated date(s) for the deployment of advanced telecommunications services to the exchanges specified in the project; and
- f. A narrative description of the company's reasons for proposing each particular project at the proposed priority level.

43.5(2) Plan and project budget categories. The plan and project budgets shall be itemized by proposed costs. Each category shall contain sufficient information to allow the board to perform an adequate analysis of the plan. The plan and project budgets shall be categorized as follows for each proposed project:

- a. Planning and design costs;
- b. Equipment costs;
- c. Costs for the installation of the equipment; and
- d. Other project and plan costs.

43.5(3) Board review of proposed projects. In reviewing the proposed projects, the board shall consider all relevant factors, including but not limited to the following:

- a. Cost efficiency of deployment, which is the calculation of the total investment divided by the number of additional access lines to be served.
- b. The extent to which the carrier's proposed investments and expenditures serve the public interest, including the upgrading of existing telecommunications infrastructure to permit improved data services for customers that cannot be offered advanced telecommunications services due to their geographic locations.

c. The availability of funding sources other than the funds received pursuant to Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, as well as external funding sources and committed investments by entities other than the carrier.

The board may approve, reject, or modify the plan. For example, the board may reorganize the project priority list or deny approval of specific projects that fail to meet the public interest test. A carrier may withdraw its plan if the carrier disagrees with the board's proposed modifications and shall refund all unspent revenues to existing customers in a manner to be approved by the board and at a rate of interest to be determined by the board, but not to exceed the interest rate allowed in Iowa Code section 476.6(13).

199—43.6(476) Upon completion of approved plan.

43.6(1) Within 60 days of completion of an approved plan, a carrier shall file a final reconciliation report. The reconciliation report shall include total incremental revenues collected, total costs incurred, access lines developed, utilization of service, and pricing of services.

43.6(2) At the same time that a carrier files a reconciliation report, a carrier shall do one or more of the following:

a. File a continuation plan for board review and approval for the continued use of the revenue resulting from the price increase allowed by Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, for further deployment of advanced telecommunications services.

b. File a rate of return rate proceeding pursuant to Iowa Code section 476.6 to determine new rates.

c. File proposed tariffs for board review and approval to reduce the monthly prices that were adjusted pursuant to Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6, by an amount equal to the increase.

d. File a refund plan. If, after the completion of the plan, a carrier elects no longer to participate in the broadband initiative, the carrier shall refund all unspent revenues to existing customers in a manner to be approved by the board and at a rate of interest to be approved by the board, but not to exceed the interest rate allowed in Iowa Code section 476.6(13).

199—43.7(17A) Confidentiality. The portions of a carrier's proposed broadband initiative plan that identify the exchanges where advanced telecommunications services are to be deployed, the time frame in which those services are expected to become available in the described exchanges, and the types of services that are to be available in those exchanges will be made available for public inspection. Supporting documents and additional information, including but not limited to market share information, cost data, vendor information, and proprietary information, may be held confidential pursuant to 199—1.9(476) if an appropriate request for confidential treatment is filed. The board may request additional information from a carrier during the board's review of a plan. If the board requests additional information from a carrier, the carrier shall supply the information upon the board's request. The requested information may also be subject to confidential treatment in accordance with rule 199—1.9(476).

199—43.8(476) Project reports.

43.8(1) A carrier shall file a project report with the board 12 months following the board's approval of a broadband initiative plan, interim projects, or tariff for rate increase, whichever comes first, and every 12 months thereafter until a final reconciliation report is filed.

43.8(2) The project report shall include the following information:

- a.* A statement detailing the carrier's progress toward completion of its approved plan;
- b.* A statement identifying the amount of money collected pursuant to Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6;
- c.* A statement identifying the carrier's expenditures for each approved project;
- d.* A statement identifying the total number of access lines in the exchange(s) specified in the plan and the access lines made available for advanced telecommunications services; and
- e.* A narrative statement of the reasons any particular project was not completed as described, proposed, or approved.

These rules are intended to implement Iowa Code section 476.97 as amended by 2003 Iowa Acts, chapter 126, section 6.

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